

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO**

Second Amended Petition for Revocation of Supervised Release

Name of Offender:	Phillip Garcia
Docket Number:	1084 1:07CR00788-001JB
Assigned Judge:	Honorable James O. Browning, United States District Judge
Date of Amended Sentence:	04/03/2020
Original Offense:	Felon in Possession of a Firearm in violation of 18 U.S.C. 922(g)(1) and 18 U.S.C. § 924(a)(2)
Original Sentence:	BOP: 173 months and 11 days or time served; TSR:3 years
Date Supervision Commenced:	04/03/2020
Date Supervision Expires:	04/02/2023
Other Court Action:	07/17/2020: Report on offender under supervision for possession of drug paraphernalia. 07/21/2020: Petition for Revocation of Supervised Release for possession of heroin and drug paraphernalia (pending). 08/31/2020: Amended Petition for Revocation of Supervised Release filed for trafficking heroin, distribution of methamphetamine, and auto burglary. (remains pending).

PETITIONING THE COURT

No warrant requested. Emergency warrant issued.

U.S. Probation Officer of the Court, Wade Miller, alleges the offender has violated the following condition(s) of supervised release.

<i>Violation Type</i>	<i>Nature of Noncompliance</i>
------------------------------	---------------------------------------

<i>MC</i>	You shall not unlawfully possess a controlled substance.
------------------	--

On July 18, 2020, at approximately 02:04 A.M. an officer with the Isleta Tribal Police Department was dispatched to the Isleta Casino and Resort in reference to narcotics located on the floor of the casino. Security officers for the casino indicated that a small baggie was dropped from the defendant's pocket which contained a crystal-like substance. The substance was tested with a NIK test kit, and it returned positive for methamphetamine. The defendant was issued a federal citation for possession of a controlled substance.

That same day, at approximately 8:45 P.M. the defendant was located by a concerned citizen in their driveway with his mouth open and he appeared unconscious while he was in his car. Police and medical personnel were contacted and a syringe with a brown fluid in it was observed in plain view on the right front seat of the vehicle. The brown fluid was tested, which returned presumptive positive for heroin. The defendant was arrested and charged with Possession of a Controlled Substance (felony) in violation of State of New Mexico statute 30-31-23(A), and

Possession of Drug Paraphernalia (misdemeanor) in violation of State of New Mexico statute 30-31-25.1(A).

MC You must not commit another federal, state, or local crime.

On July 18, 2020, at approximately 8:45 P.M. the defendant was located by a concerned citizen in their driveway with his mouth open and he appeared unconscious while he was in his car. Police and medical personnel were contacted and a syringe with a brown fluid in it was observed in plain view on the right front seat of the vehicle. The brown fluid was tested, which returned presumptive positive for heroin. The defendant was arrested and charged with Possession of a Controlled Substance (felony) in violation of State of New Mexico statute 30-31-23(A), and Possession of Drug Paraphernalia (misdemeanor) in violation of State of New Mexico statute 30-31-25.1(A).

(Amended Information)

MC You must not commit another federal, state, or local crime.

On August 29, 2020, at approximately 9:45 AM, the defendant was contacted by the Bernalillo County Sheriff's Office (BCSO) at 1897 Coors Blvd SW (Speedway Gas Station), after a calling party saw the defendant enter a silver Toyota SUV that did not belong to the defendant. He then took a purse from the passenger side of the vehicle and began walking away. The defendant was contacted by the owner of the purse and SUV. The defendant threw the purse at her and attempted to drive away in his own vehicle. The defendant's vehicle would not start, and he was contacted by BCSO. After deputies made contact with the defendant, he was arrested for Auto Burglary, based on the above listed information. Upon inventory of the defendant's vehicle, he was also found to be in possession of three packages containing a brown tar-like substance identified as heroin. During the investigation, the defendant was also found to be in possession of methamphetamine. The defendant was charged with three felony charges to include: (1) Trafficking Heroin in violation of State of New Mexico Statute 30-31-20A(2), (2) Possession with Intent to Distribute Methamphetamine in violation of State of New Mexico Statute 30-31-22A(2), and (3) Auto Burglary in violation of State of New Mexico Statute 30-16-3B.

MC You shall not unlawfully possess a controlled substance.

On August 29, 2020, the defendant was located by the Bernalillo County Sheriff's Office in possession of heroin and methamphetamine. The narcotics were packaged in a manner consistent with trafficking narcotics, and he was charged accordingly.

MC You must not commit another federal, state, or local offense.

On August 30, 2020, prior to being processed at the Metropolitan Detention Center (MDC), the defendant was evaluated at the University of New Mexico Hospital in Albuquerque, New Mexico. Upon his discharge at approximately 10:40 AM, a deputy with the Bernalillo County Sheriff's Office directed the defendant to stand up so he could be placed in handcuffs and transported. The defendant failed to comply with deputy commands and became upset. The defendant demanded to walk out of the hospital without handcuffs and then once outside, he would allow them to be placed on him. Deputies attempted to handcuff the defendant while in the hospital bed; however, the defendant became combative and bit a deputy on his right arm

under his bicep. The defendant threatened to physically assault the deputy further and continued to call him derogatory names. While continuing to struggle with deputies, the defendant again put his head to the chest of the deputy and started biting. The defendant was charged with the felony offense of Aggravated Battery on an Officer Causing Great Bodily Harm in violation of State of New Mexico Statute 30-22-25C.

The maximum statutory penalty: 2 years imprisonment; 3 years supervised release.
The revocation range of imprisonment: 21 months to 24 months.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on 09/01/2020.

Submitted:

Approved:

☒ Duplicate Warrant

Wade Miller
Senior U.S. Probation Officer
Cell #: 505-238-9411

Duplicate Warrant issued

Date: 08/29/2020